ABA SECTION OF PUBLIC CONTRACT LAW

Federal Procurement Institute

March 11–14, 2020

Graduate Annapolis Hotel
Annapolis, Maryland
From March 11–14, 2020, distinguished panelists from government, industry, private law practice, and academia will convene in Annapolis, Maryland to participate in the Annual Federal Procurement Institute (FPI), the flagship program of the ABA Section of Public Contract Law. This year marks 26 years of discussing federal government procurement developments in our area of practice.

**Keynote Luncheon Address**

**Friday, March 13, 2020**

**The Honorable Ellen Lord**
Undersecretary of Defense for Acquisition and Sustainment
U. S. Department of Defense
Washington, DC

The FPI offers a unique opportunity to learn about varying perspectives and reasoning taken by the public contract community’s stakeholders by engaging the panelists and your fellow participants in a spirited exchange of ideas throughout the two-day institute and the multiple networking events scheduled throughout the program.

The opportunity to exchange ideas with fellow public contract professionals continues on Saturday, March 14 when our Section Council will meet in open session to discuss action and information on legislation, regulations, and other current issues important to government contract practitioners.

Please visit [ambar.org/PubConFPI20](ambar.org/PubConFPI20) for the most up-to-date information.
Section and Conference Leadership

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Wednesday, March 11, 2020

1:00 pm – 4:30 pm
Women’s Networking Event
Sponsored by: The Larkin Law Group LLP, Baker Tilly, Berkeley Research Group (BRG)
Join fellow women attendees for socializing and networking before the FPI Practicum session at the Annapolis home of Past-Chair, Sharon Larkin. Please indicate your intent to attend on the online registration form. Directions will be provided prior to the event.

5:00 pm – 7:00 pm
Optional Practicum: Organizational Conflicts of Interest: Why They Matter & How to Address Them
REGISTRATION FEE: $40
This panel discussion will provide a practical deep dive into the analysis of Organizational Conflicts of Interest (OCI) from a legal, regulatory and compliance perspective. The panel will present an overview of the three types of OCI and discuss applicable requirements imposed by the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS). The panel also will discuss recent GAO bid protest decisions involving OCIs (arising pre-award and post-award) and explain how these decisions have shaped the practical legal analysis and guided best practices in this area.

PANELISTS
Liza V. Craig, Counsel, Reed Smith LLP, Washington, DC
Stephen S. Kaye, Assistant General Counsel, Leidos, Inc., Chantilly, VA
Victoria (Tory) H. Kauffman, Senior Attorney, Office of the General Counsel, National Aeronautics and Space Administration (NASA), Washington, DC
James G. Peyster, Counsel, Crowell & Moring LLP, Washington, DC

7:00 pm – 8:00 pm
Reception—Hosted by Baker Tilly

8:00 pm – 9:00 pm
First Timers & New Members Gathering

8:00 pm – 9:30 pm
No Host Federal, State, & Local Government Attorneys Networking Event

Thursday, March 12, 2020

7:30 am – 8:00 am
Registration and Continental Breakfast

8:15 am – 8:30 am
Opening Remarks and Introduction

8:30 am – 10:00 am
From Due Diligence to Novation: Navigating the Legal and Cultural Impacts of Mergers & Acquisitions
The trend toward consolidation, especially in the defense industry, continues unabated, with consequences for outside counsel, in-house counsel, and government attorneys. M&A involving government contractors generates a host of specialized issues that the typical government contracting attorney may not be equipped to address. In addition, the merger of previously separate companies (and previously separate law departments) with different cultures presents its own set of challenges. This panel of in-house, government, and outside counsel will discuss the government contracting expertise that should be included in the due diligence process prior to closing the deal, best practices for addressing post-closing legal issues, and practical approaches to help smooth the way for culture change.

PANELISTS
Brad Jorgensen, Partner, DLA Piper LLP, Austin, TX
Jennifer Santos, Deputy Assistant Secretary of Defense for Industrial Policy, U. S. Department of Defense, Washington, DC
Michele St. Mary, Vice President, General Counsel, L3Harris Technologies, Herndon, VA
Joe Ugliaro, Formerly Chief Operations Officer & General Counsel, MicroTech, Vienna, VA
10:00 am – 10:15 am
Networking Break

10:15 am – 11:45 am
Whither and Whether to Protest: New Legislative and Judicial Developments and their Impact on Filing Decisions

Every year, between 2,500 to 3,000 bid protests are filed at GAO, with another 100 to 200 protests filed at the Court of Federal Claims. Yet year in and year out, less than 20% of GAO protests are sustained, and the win rate is even lower at COFC. In addition, new DoD and legislative agendas seek to curtail a contractor’s ability to protest. Given these facts, and the legal fees and other costs associated with protesting, why protest at all? This panel will present industry and outside counsel perspectives on why the ability to protest provides important protections to the contractor and helps ensure integrity in the procurement process. The panelists will discuss the practical considerations that enter into where and whether to protest, and the impact that proposed legislation and recent judicial decisions have had on that decision-making process.

PANELISTS
Justin A. Chiarodo, Partner, Blank Rome, Washington, DC
Seth Locke, Partner, Perkins Coie, Washington, DC

12:00 noon – 1:30 pm
Optional Government Construction Contracts Program: Recession or Economic Downturn—How to Protect Your Rights and Determine Your Remedies

REGISTRATION FEE: $40

This session will address the following subtopics:
★ The Miller Act—How to make a claim on a payment bond
★ Releases and waivers and how to incorporate Reservation of Rights language
★ Bankruptcy—A subcontractor or general contractor files for bankruptcy—Now what do you do?

PANELISTS
Olya Antle, Associate, Cooley LLP, Washington, DC
Shawn Kelly, Claim Counsel, Travelers Casualty & Surety Company of America, Hunt Valley, MD
Erin Frazee Masini, Senior Associate, Fox Rothschild LLP, Washington, DC
Kyle P. Murphy, Vice President and Senior Claims Officer, International Fidelity Insurance Company (IFIC Surety), Baltimore, MD
Young Lawyers No Host Luncheon

1:45 pm – 2:15 pm
2019 Public Contract Law Journal Writing Competition Winner Presentation

2:15 pm – 3:45 pm
View from the Inside: Perspectives on the Qualities of ADR in Different Fora

ADR is not the same in every forum in which parties seek resolution of procurement and contracting disputes. In GAO, for instance, where bid protests constitute the vast majority of cases brought, almost all ADR consists of outcome prediction by the assigned attorney. By contrast, the robust ADR programs at the Boards of Contract Appeal, ODRA, and the Court of Federal Claims tend to emphasize mediation, but not exclusively, and each tribunal has a slightly different approach. Here, the panelists will discuss the ADR experience at their respective venues and provide insights into the most effective presentations and strategies for litigants.

PANELISTS
Hon. Marie A. Collins, Administrative Judge and Dispute Resolution Officer, Federal Aviation Administration, Washington, DC
Hon. Nancy B. Firestone, Chair, U.S. Court of Federal Claims, Washington, DC
Patricia M. McCarthy, Assistant Director, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, Washington, DC
Hon. Marian E. Sullivan, Administrative Judge, U.S. Civilian Board of Contract Appeals, Washington, DC
Ralph White, Managing Associate General Counsel for Procurement Law, U.S. Government Accountability Office, Washington, DC
Hon. Owen Wilson, Vice Chairman, Armed Services Board of Contract Appeals, Falls Church, VA

3:45 pm – 4:00 pm
Networking Break

4:00 pm – 5:30 pm
Somebody is Watching: The Impact of Increased Government Oversight on Cybersecurity Compliance

It’s difficult to open the newspaper without reading about another company or government entity that has been the victim of a cyberattack. Not surprisingly, there is growing concern from within the Government and in industry that the existing Government contractor cybersecurity requirements are not working to adequately protect our nation’s important data. The Department of Defense has taken a leading role in formulating new policies addressing this important matter in government contracting. This panel, featuring the lead for formulating and aligning DoD acquisition cyber strategy, as well as a technical consultant, in-house counsel, and outside counsel, will discuss recent changes to DoD’s cybersecurity compliance requirements and their potential impact on contractors.

PANELISTS
Katie Arrington, Special Assistant to the Assistant Secretary of Defense for Acquisition for Cyber, Office of the Under Secretary of Acquisition and Sustainment, Washington, DC
Susan Cassidy, Partner, Covington & Burling, Washington, DC
Ryan Heidorn, Managing Partner and Co-Founder, Steel Root, Salem, MA
Christine Ricci, Executive Counsel, General Electric, Richmond, VA

5:30 pm – 6:45 pm
Reception Sponsored by WilmerHale

7:00 pm – 9:00 pm
No Host Dinners (Dine Arounds)
see page 10 for details

7:00 pm – 9:00 pm
Section Fellows Dinner FEE: $72
Maintaining Technological Superiority in the Post-Cold War Era: Balancing Public/Private Interests When Acquiring Rights in Technical Data and Computer Software for Systems Requiring Sustainment and Modernization

The government spends the majority of its procurement dollars sustaining aging systems and equipment. With ever present budget constraints, access to technical data and computer software is needed to affordably maintain, upgrade, and modernize new and legacy systems, along with incentives to innovate and succeed through competitive means. This panel will present industry and government perspectives on successful procurement strategies and recent government and industry initiatives to balance competing interests, including strategies for the acquisition of technical data and computer software rights for sustainment.

PANELISTS

Mark Borowski, Chief IP Counsel, IBM Federal, Washington, DC
Chuck Harris, Associate Deputy General Counsel, U.S. Army, Washington, DC
Barry J. Hurewitz, Partner, Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC
James McEwen, Assistant General Counsel, Intellectual Property, Rotary Mission Systems at Lockheed Martin, Stratford, CT

Contracting For Innovation: Leveraging Alternative Procurement Vehicles to Deliver Capability at the Speed of Relevance

Our current acquisition system, with its decade-long major system development cycle, is rooted in an earlier era where government needs were more predictable and critical technologies were developed at a uniform pace largely through government investment. But we no longer have the luxury of time; today we face ever evolving challenges fueled by rapid technological change that render our major system procurement model obsolete. Novel, breakthrough technologies are advanced by non-traditional government contractors, wary of doing business with the federal government. This presentation will discuss the use of alternative procurement techniques and approaches to leverage private sector technologies, accelerate contracting timelines, and deliver cutting edge capabilities. Here, we will discuss innovative statutory authorities, such as section 804 of the FY2016 NDAA, and the expanded use of OTAs, cooperative agreements, CRADAs, partnership intermediary agreements, and other non-FAR based contracting vehicles.

PANELISTS

Diane M. Sidebottom, Learning Director for Other Transaction Agreements and Grants, Defense Acquisition University, Belvoir, VA
Jerry L. Trepkowski, Senior Counsel, The Johns Hopkins University, Applied Physics Laboratory, Laurel, MD
Armani Vadiee, Member, Smith Pachter McWhorter PLC, Tysons Corner, VA
Keynote Luncheon Address  

Recent Developments in False Claims Act Jurisprudence  
The False Claims Act is one law that everyone in government contracting should know at least something about. Developments in the past few years include two decisions from the Supreme Court, consolidated guidance from the Department of Justice regarding cooperation credit, de-emphasis on sub-regulatory guidance as a predicate for FCA enforcement, and a new emphasis on the dismissal of unmeritorious qui tam lawsuits. This panel will explore how these developments have changed—or not changed—how contractors can assess False Claims Act risk, structure compliance systems, and effectively respond to government scrutiny.  

PANELISTS  
Robert J. Conlan, Jr., Partner, Sidley & Austin, Washington, DC  
Maureen Del Duca, Vice President, Deputy General Counsel, Northrop Grumman Corp., Falls Church, VA  
Alex P. Hontos, Partner, Dorsey & Whitney LLP, Minneapolis, MN  
Michal Tingle, Assistant Director, Civil Division, Commercial Litigation Branch, Fraud Section, U.S. Department of Justice, Washington, DC  

Ethics Issues Regarding Social Media and Government Contracting  
This presentation will address the various social media tools that populate our daily lives and how social media has become a component of attorney competence. The panel will discuss the various applicable ABA model rules and some select states’ rules of professional conduct that apply when addressing social media-related issues in legal practice generally, and particularly as these issues may apply to the government contracting community.  

PANELISTS  
Tom Mason, Partner, Harris, Wiltshire & Grannis LLP, Washington, DC  
Andrew D. Pilant, Senior Counsel, Huntington Ingalls Industries, Inc., Avondale, LA  
Preston L. Pugh, Member, Miller & Chevalier Chartered, Washington, DC  

Networking Break  

Section Reception  
The Section of Public Contract Law acknowledges the generous support of our sponsors for their contributions to the Section’s educational conferences. The full list of sponsors is available on page 11.

Saturday, March 14, 2020  
8:00 am – 12:00 noon  
Section Council Meeting  
Please join the leaders of the Section in this open session to discuss actions and information on legislation, regulations, and other current issues important to government contracts practitioners. All section members and registrants of the FPI are welcome to attend the Council Meeting.  

12:00 noon – 1:00 pm  
Section Leadership Brainstorming Session  
Join Section leaders in a discussion of current and future section initiatives and enhancing the Section’s relevance in addressing substantive development in the public contract law arena.
Networking Events

Wednesday, March 11, 2020
1:00 pm – 4:30 pm
Women’s Networking Event

Sponsors: The Larkin Law Group LLP, Baker Tilly, Berkeley Research Group (BRG)

Join fellow women attendees for socializing and networking before the FPI Practicum session at the Annapolis home of Past-Chair, Sharon Larkin. Please indicate your intent to attend on the online registration form. Directions will be provided prior to the event.

7:00 pm – 8:00 pm
Reception—Hosted by Baker Tilly

7:00 pm – 9:00 pm
No-Host (Dine Arounds) Dinners
Join your colleagues of all levels of experience for conversation over dinner as part of this organized dining event in Annapolis. Indicate your intent to participate and check the “No Host Dine Out” box on the online registration form. Restaurant sign-ups will take place on-site at the FPI Registration Desk. Each dinner will be led by a Section Leader. Dinners are No Host – cash only.

7:00 pm – 9:00 pm
Fellows’ Dinner
(Fellows Members only) Fee: $72
The Fellows of the Section of Public Contract Law will convene for food, drink, and conversation at Carrol’s Creek Restaurant located at 410 Severn Avenue.

Friday, March 13, 2020
5:15 pm – 6:45 pm
Section Reception
The Section of Public Contract Law acknowledges the generous support of our sponsors for their contributions to the Section’s conference receptions. The full list of conference reception sponsors is available on page 11.

Public Service Event
We will have a service-related project in conjunction with our Friday reception. Stay tuned for details.
Thank you to our sponsors!

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**REGISTER ONLINE:** ambar.org/PubConFPI20  
**MAIL:** Please visit ambar.org/PubConFPI20 for a printable registration form.

<table>
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<th>Registration Rates</th>
<th>Early Bird</th>
<th>After 2/15/20</th>
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<td>General Attendee (Non ABA Member)</td>
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**Optional Programs**

| Optional CLE Practicum (Wed) | $40 |
| Optional CLE Construction Program Lunch (Thurs) | $40 |
| PCL Section Fellows Dinner/Meeting (Fellows Members Only) | $72 |
| Friday Keynote Luncheon Address (Limited Seating) | $50 |
| Saturday Council Meeting | No Fee |

**Networking Events**

| Women’s Networking Event | Included |
| Wednesday Reception | Included |
| First Timers/New Members Gathering | Included |
| Govt/Attorneys No Host Gathering | No Host |
| Young Lawyers No Host Luncheon | No Host |
| Thursday Reception | Included |
| Thursday No Host Dinners | No Host |
| Friday Reception | Included |

*Qualifying young lawyers are under 36 years old or admitted to practice for five years or less.*

**GROUP DISCOUNT**

Firms/agencies registering three or more attendees may be eligible for a group discount of 20% off each attendee’s registration. To qualify for the group discount, the attendees must register together and include the special discount code at the time of registration. No retroactive application of the discount code is permitted. Please email patty.brennan@americanbar.org for more information.

**REGISTRATION FEE INCLUDES**

The conference registration fee includes tuition and online course materials developed especially for this conference. In addition, your fee covers the continental breakfasts, beverage breaks, and receptions. The Optional Practicum, Optional Construction Lunch Program, Fellows Dinner, and Keynote Luncheon Address each have a separate registration fee. Payment must accompany registration. Confirmations will be sent to all registrants.
ATTENTION ABA MEMBERS!
If you are an ABA member but not a member of the Section of Public Contract Law, your conference registration fee now includes Section membership, a $45 value. You will automatically be enrolled in the Section. ABA membership is a prerequisite of Section membership. If you are not already an ABA member, please call (800) 285-2221. Free membership only applies to individuals who have not been a member of the Section during the past two years.

EARLY BIRD DEADLINE
The deadline to receive the early bird registration rate for the 26th Annual FPI, is February 15, 2020. The final cutoff date for advance registration is March 6, 2020. After this date registrations must include an additional $25 for processing.

CANCELLATION POLICY
Registrants who are unable to attend the conference will receive a refund less a $50 administrative fee if written notice of cancellation is received by March 1, 2020. No refunds will be granted after this date. Cancellations may be emailed to patty.brennan@americanbar.org. Registration fees are not transferable to other Sections or ABA programs.

Substitute attendees for the conference are acceptable. Substitutions are not permitted once a registrant has registered on-site or after the conference has occurred. Please submit a request on firm/agency letterhead to transfer the registration to another person. Only the substitute will be eligible for CLE credit. The substitute and original registrant must work out the payment between themselves.

The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.

TUITION ASSISTANCE
A limited number of registration fee reductions may be available for government employees, public interest lawyers employed with nonprofit organizations, and academics. For programs with tuition costs over $500, qualifying lawyers will receive at least a 50 percent reduction in the course fee(s). The fee-reductions will be determined on a one-time only, case-by-case basis. Please contact patty.brennan@americanbar.org for an application.

CLE CONFERENCE MATERIALS
Prior to the program, all advance registrants will receive an email with a link to the CLE materials. No printed materials will be available on-site. You are encouraged to bring a laptop, notebook or tablet to view the materials onsite. Complimentary Wi-Fi access will be available.

CLE CREDIT
The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MP, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV.

These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 15.5 CLE credit hours in 60-minute states (including 2 ethics hours), and 18.6 credit hours in 50-minute states (including 2 ethics hours). These credit hours include the Optional Practicum and Optional Construction Division Program.

This transitional program is approved for both newly admitted and experienced attorneys in NY. Certificates of attendance will be available at the program for both attendees and speakers. If you have questions about the number of CLE credit hours granted by each state, you may call 800.285.2221 starting two weeks before the program.
CPE INFORMATION

The American Bar Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org.

Recommended CPE Credits and Fields of Study: Program attendees can earn up to 18.6 CPE credits in taxes and regulatory ethics fields of study. Prerequisites: Previous experience in tax law; Advanced Preparation: None; Program Level: Intermediate; Delivery Method: Group-Live.

DIETARY RESTRICTIONS

If you have any dietary restrictions, please indicate so by contacting Sean Dickerson at sean.dickerson@americanbar.org by March 6 so that your needs are noted.

SERVICES FOR PERSONS WITH DISABILITIES

We encourage participation by all individuals. If you are a person with a disability, please provide us advance notice of any special arrangements you may need so we can best accommodate you. Please email Patty Brennan at patty.brennan@americanbar.org with your request.

MEMBERSHIP

To join the Public Contract Law Section for $45 go to ambar.org/pubcon.

TAX DEDUCTION FOR EDUCATIONAL EXPENSES

In the United States an income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals and lodging expenses (see Treas. Reg. Sec. 1.162-2) Coughlin v. Commissioner, 203 F.2d 307 (2nd Cir. 1953).
HOTEL INFORMATION
The Graduate Annapolis Hotel (formerly the Loews Annapolis Hotel) is located at 126 West Street in the historic seaport of Annapolis, Maryland, and an easy drive from both Baltimore and Washington, DC, and only 18 miles from Baltimore-Washington International Airport (BWI). ABA guests will receive complimentary internet access in guest rooms.

The section’s room block will be available until Tuesday, February 11, 2020 at 5pm CST or whenever the room block fills, whichever comes first. Rooms are available for check-in after 4 pm and check-out time is 12:00 noon.

Individuals with guaranteed reservations must cancel their reservations 24 hours prior to the scheduled day of arrival to avoid a one night’s cancellation charge.


To book our contracted rate of $185 plus taxes, call the hotel directly at 410-263-7777 and mention ABA Section of Public Contract Law 26th Annual FPI or reserve online at ambar.org/PubConFPI20 and click the Reserve Your Room Now link.

GOVERNMENT HOTEL RATE
A limited number of rooms are also available at a government rate for government employees. Proof of current government employment will be required at check-in to be entitled to this government room rate. To book our contracted rate, call the hotel directly at 410-263-7777 and mention ABA Section of Public Contract Law 26th Annual FPI or reserve online at ambar.org/PubConFPI20 and click the Government Rate link.

TRAVEL
Airfare and car rental discounts for ABA meetings are available through Egencia and Hertz. Please visit ambar.org/PubConFPI20 for more information.
Federal Procurement Institute

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